

# WORLD TRADE ORGANIZATION

WT/DS217/42  
11 November 2004

(04-4841)

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## UNITED STATES – CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000

### Recourse by Korea to Article 22.7 of the DSU

The following communication, dated 10 November 2004, from the delegation of Korea to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 22.7 of the DSU.

The Republic of Korea requests that the following item be placed on the agenda of the meeting of the Dispute Settlement Body on 24 November 2004:

*United States – Continued Dumping and Subsidy Offset Act of 2000*

*Recourse by the Republic of Korea to Article 22.7 of the Understanding on Rules and Procedures Governing the Settlement of Disputes*

The Panel and the Appellate Body found that the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA") was inconsistent with the United States' obligations under the General Agreement on Tariffs and Trade 1994 ('GATT 1994'), the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, the Agreement on Subsidies and Countervailing Measures and the Marrakesh Agreement establishing the World Trade Organization. On 27 January 2003, the Dispute Settlement Body ("DSB") adopted the Appellate Body report and the Panel report as modified by the Appellate Body report. The United States stated that it intended to implement the recommendations and rulings of the DSB but failed to do so within the required deadline (by 27 December 2003).

Consequently, on 15 January 2004, the Republic of Korea requested authorization to suspend the application to the United States of tariff concessions and other obligations under GATT 1994. As the United States objected to the level of suspension proposed, the matter was referred to arbitration pursuant to Article 22.6 of the DSU on 26 January 2004.

The Arbitrator issued its decision on 31 August 2004 which concluded that:

5.2 [T]he suspension by the Republic of Korea of concessions or other obligations in the form of the imposition of an additional import duty above bound custom duties on a list of products originating in the United States covering, on a yearly basis, a *total value of trade* not exceeding, in US dollars, the amount resulting from the following equation:

Amount of disbursements under CDSOA for the most recent year for which data are available relating to anti-dumping or countervailing

duties paid on imports from the Republic of Korea at that time, as published by the United States' authorities.

*multiplied by:*

0.72

would be consistent with Article 22.4 of the DSU.<sup>1</sup>

In accordance with Article 22.7 of the DSU, the Republic of Korea hereby requests authorization from the DSB to suspend the application to the United States of tariff concessions and other obligations under GATT 1994, including Articles I and II thereof, in the form of the imposition of additional import duties on products originating in the United States, at a level not exceeding every year 72% of the amount of CDSOA disbursements relating to anti-dumping or countervailing duties paid on imports from the Republic of Korea for the most recent year for which data are available at that time, consistent with the decision by the Arbitrator of 31 August 2004.<sup>2</sup>

Furthermore, pursuant to the arbitration award, the Republic of Korea will notify the DSB every year, prior to the entry into force of the suspension of concessions or other obligations, the list of products on which the additional import duty will be levied. The products will be drawn from the attached indicative list of products.

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<sup>1</sup> WT/DS217/ARB/KOR, para. 5.2.

<sup>2</sup> WT/DS217/ARB/KOR.

